

MINUTES
TOWN OF GROTON
ZONING COMMISSION
JUNE 4, 2014 – 7:00 P.M.
TOWN HALL ANNEX – COMMUNITY ROOM 2

I. ROLL CALL

Regular members present: Sutherland, Marquardt, Hudecek, French
Alternate members present: Middleton (7:04)
Absent: Sayer, Bancroft, Smith
Staff present: Glemboski, Cullen, Quinn, Galetta, Carey

Chairperson Sutherland called the meeting to order at 7:00 p.m.

II. PUBLIC HEARING

1. Special Permit #342, 27 West Main Street, PIN 261918400894 (CAM), WDD Zone. Proposal is to change an existing retail use to a restaurant with seasonal outdoor seating. Review is per Sections 6.3 and 8.3 of the Zoning Regulations. (Fedus Engineering, LLC, Applicant)

The Public Hearing was opened at 7:01 p.m. with Chairperson Sutherland reading the legal ad. Commissioner Middleton arrived and recused himself from the public hearing.

Eric Burns of Jerome Properties, LLC introduced his firm as the owner of the property and explained they are requesting the special permit in order to market the property to an end user as a restaurant. The property location is 27-29 West Main Street. Radio Waves at 29 West Main Street will remain retail. Comina, a retail store located at 27 West Main Street, is proposed to change from retail to restaurant. Additionally, there are two apartments and a tarot card reading business located on the second floor of the building.

Gregg Fedus of Fedus Engineering, LLC reviewed a proposed indoor bar and restaurant seating area, and an outdoor patio. The parking calculations result in the need for 33 spaces, and with the 5/8th rule the requirement is 21 spaces. The Special Permit #260 for the tarot card reading business and apartment required 5 spaces. The rest of the parking is not accounted for because there have been no other special permits before the Commission. As a result of the request for a change of use, 18 more spaces are needed. Participation in the validation program will be required of this facility and the upstairs business (via Special Permit #260). They will also be relying on some on-street parking and pedestrian traffic. The applicant has entered into a lease with the owners of 31 Water Street for 15 spaces that, in the short term, will be dedicated to staff. In addition to this, they are second on a waiting list for 18 additional spaces at the Mystic Arts Center. The spaces will be available when the Arts Center expansion project is complete.

The Commission requested a better explanation of how the calculations result in the numbers being reported in the application. Fedus explained that parking for dining is calculated on square footage of seating area and parking for staff is included in this calculation. The restaurant capacity is approximately 120 inside, with 16 outside seasonal seating. There is no outdoor music proposed in the application.

Fedus discussed some of the benefits included in the application proposal. An existing trash enclosure on adjacent property, which handles trash for many of the downtown businesses, will be upgraded as will a trash compactor and grease container at the same

location. Additionally, the stormwater management system will be improved, particularly the infiltration, with the addition of crushed stone and pervious pavers.

Fedus reviewed the narrative for the special permit building and development standards, the Waterfront Design District objectives, and the special permit objectives.

The hours of operation for dining being proposed are 11:00 a.m. to 10:00 p.m. Sunday thru Thursday and 11:00 a.m. to 11:00 p.m. Friday and Saturday. According to the applicant's research these hours are consistent with those of the surrounding restaurants.

Eric Burns, of Jerome Properties LLC, addressed parking and the primary reasons for submitting the application. The applicants recognize that parking is a sensitive issue. They have an office located in the downtown area and they are heavily involved with the Arts Center and the committee formed to help it maximize the parking situation. The applicants view the perceived parking issue more as a lack of free parking. They are trying to promote use of the paid lot which people tend to be reluctant to use. Additionally, they conducted extensive research on both sides of the river and were not successful in finding any spaces other than 15 spaces at 31 Water Street and the promised 18 spaces from the Arts Center. Their feeling is that in downtown areas the parking situation is a shared problem.

Burns explained that Jerome Properties owns a number of small mixed use buildings throughout the country. They have witnessed an evolution in the use of these buildings with more and more of them moving toward entertainment and social venues. They believe that the local residents are much bigger end users of the restaurants in downtown over retail shopping in small boutique stores. Culturally, there is a tremendous demand from food users in today's market and the applicants are confident there is a demand for another restaurant. They feel that ultimately it will benefit the downtown area.

Staff noted that the mailings are in order. The Planning Commission reviewed the application and had concerns about the hours of operation and parking. Staff discussed the hours of operation. The bar will remain open until 1:00 a.m. Staff also gave a history of the upstairs area where a tarot card business is located along with residential apartments. The legal home occupation business generates 5 parking spaces. This will not change. The change of use is for the retail area downstairs. Staff also reviewed the parking calculations explaining there is a difference in intensity and turnover from retail to restaurant use.

The Commission had some concerns about approval of a special permit for what is essentially a conceptual idea. Staff explained that the use of a restaurant is what gets locked in. Parking intensity is linked to the square footage of the bar and restaurant seating. The kitchen will be reviewed at other levels such as the health district, building department and fire marshal. Staff noted that there is a letter in the file showing a commitment from the Mystic Arts Center and promising up to 20 spaces. There is also a copy of the lease from 31 Water Street for 15 spaces plus the 2 spaces on-site. This brings the total number of spaces to 37. Staff noted this showed a fair bit of effort on applicants' part to make this happen. She also noted that benefits from the application are the upgrades to the dumpster and grease trap as well as reduction in impervious surface in the Coastal Management Area.

MOTION: To take a five minutes recess at 8:07 p.m.

Motion made by Marquardt, seconded by French, so voted unanimously. The meeting recess ended at 8:08 p.m.

The hours of operation for Pizzetta and the Oyster Club were discussed relative to outside dining. The applicants noted that they are willing to reduce the hours of the patio seating to keep them in line with neighboring restaurants.

Chairperson Sutherland asked for public comments for or against the application.

Marshall Yudin, President of Steamboat Wharf Condominium Association, spoke on behalf of the condominium owners. The owners are concerned with noise in the patio area and when late night patrons are leaving. Yudin complimented the Zoning Commission on achieving a good balance between the residents and businesses in downtown Mystic.

Leroy Broccoli, owner of Ancient Mariner Building, spoke in opposition of the application. He voiced concern about parking and noise.

The Commission asked for clarification regarding whether or not the patio area will be used as a bar area after the dining hours end. The applicants stated that the patio area is a dining area.

The public hearing closed at 8:19 p.m.

III. APPROVAL OF THE MINUTES OF May 7, 2014

MOTION: To approve the minutes of May 7, 2014

Motion made by French, seconded by Hudecek, 3 in favor, 0 opposed, 1 abstention (Sutherland). Motion passed.

IV. CONSIDERATION OF PUBLIC HEARING

1. Special Permit #342, 27 West Main Street, PIN 261918400894 (CAM), WDD Zone (Fedus Engineering, LLC, Applicant)

MOTION: To approve Special Permit #342, 27 West Main Street, Mystic, to change the use of the first floor from retail to a restaurant with 1061.9 square feet of dining area (820.5 sf inside and 241.4 sf outside) and 469 square feet of bar seating. Subject to the following conditions:

1. No outdoor music.
2. Service to the outdoor dining area will end at 9:00 p.m.

The Commission discussed whether any consideration should be given to indoor music and the noise it may create.

Motion made by Marquardt, seconded by Hudecek, so voted unanimously.

Findings and Reasons for Approval

The Commission finds that change of use of the first floor level from retail to restaurant complies with Section 6.3 of the Zoning Regulations in that the restaurant will serve both Mystic residents and tourists; it will preserve and enhance the historic features of the existing building, and; it is in keeping with the goals of the Plan of Conservation and Development.

The Commission also finds that the change of use complies with Section 8.3 of the Zoning Regulations in that it will not have any detrimental effects on the public health, safety, and welfare, will not be in conflict with the normal pedestrian and vehicular traffic pattern of the neighborhood, does not conflict with the purposes of these regulations, and will reasonably minimize the potential environmental impacts on adjacent water bodies, including Long Island Sound.

MOTION: To approve the Coastal Site Plan for Special Permit #342, 27 West Main Street, Mystic, because it is consistent with all applicable coastal policies and includes all reasonable measures to mitigate adverse impacts on coastal resources.

Commissioner Marquardt noted that she was pleased with the stormwater plans.

Motion made by Hudecek, seconded by French, so voted unanimously.

Cullen left at 8:25 p.m.

V. PUBLIC COMMUNICATIONS - None

French left at 8:30 p.m.

VI. EXECUTIVE SESSION

1. For settlement discussion with regard to *Whittle v. Zoning Board of Appeals*, KNL- CV-08-4007938, *Turner v. Zoning Commission*, KNL-CV-12-6012872-S, and *Whittle v. Zoning Commission*, KNL-CV-12-6012917-S

Chairperson Sutherland recused herself from the executive session.

MOTION: To enter executive session at 8:35 p.m. for settlement discussion with regard to *Whittle v. Zoning Board of Appeals*, KNL- CV-08-4007938, *Turner v. Zoning Commission*, KNL-CV-12-6012872-S, and *Whittle v. Zoning Commission*, KNL-CV-12-6012917-S

Motion made by Hudecek, seconded by Marquardt, so voted unanimously.

Invited to be in attendance for the executive session were Commissioners Marquardt, Middleton, and Hudecek. Staff members invited to attend to offer testimony or opinion were Kevin Quinn and Town Attorney Michael Carey.

MOTION: To end the executive session at 9:20 p.m.

Motion made by Middleton, seconded by Marquardt, so voted unanimously.

Vice-Chair Hudecek noted that there were no votes taken during the executive session.

Sutherland returned and Quinn and Carey left at 9:25 p.m.

VII. ITEM FOR CONSIDERATION

1. For discussion and possible action with regard to *Whittle v. Zoning Board of Appeals*, KNL- CV-08-4007938, *Turner v. Zoning Commission*, KNL-CV-12-6012872-S, and *Whittle v. Zoning Commission*, KNL-CV-12-6012917-S

No action.

VIII. OLD BUSINESS

1. Discussion of Revisions to Zoning Regulations; including Buildable Land Definition, Table of Permitted Uses, and Special Permits

Chairperson Sutherland noted that the Town Council has authorized \$5,000 to review the zoning regulations. This is expected to move quickly and will go out to bid soon. The consultants might make recommendations for the Commission to address in the regulations.

Staff noted that a comprehensive overhaul of the zoning regulations has not been done since they were enacted in the 1950's. She noted that the Town of Cromwell has a good example of regulations that have been revamped. Staff also discussed developing a processing guide that would take an applicant through the steps required for a special permit or other type of application. She noted that the EDC was also discussing a guide. Several Zoning Commissioners volunteered to help make the zoning regulations easier to use via hyperlinks. Chairperson Sutherland volunteered to follow up with Brian Hancock.

2. POCD Update Report

Chairperson Sutherland noted that final draft comments from the Steering Committee are due this week after which a draft will be released. Staff noted that the Planning Commission will review the draft, as necessary through a series of workshops, before going to a public hearing.

3. Land Use Regulation Update Project

This item was discussed in Item #1 and should now be combined with Item #1 for the next agenda.

IX. NEW BUSINESS

1. Report of Commission – None
2. Receipt of New Applications
 - a. Zoning Regulation Amendment #REGA14-01 to Sections 5.1-3 and 7.1-47 to allow the Keeping of Hens on residentially used properties, (Town of Groton Zoning Commission, Applicant)

The Commission scheduled a public hearing for July 2nd.

X. REPORT OF CHAIRPERSON

1. Report on December 10, 2013 meeting with Town Council

Chairperson Sutherland stated this item can now be taken off the agenda.

2. Report of New Zoning Regulation Review

This item was discussed under Old Business.

3. Review of Chapter 8 of Town Charter

Sutherland had no comment on this item and provided it to the Commission for informational purposes relative to how Commissioners are appointed and removed.

XI. REPORT OF STAFF

Staff distributed a letter from the Director of Public Works regarding the Crystal Lake Road Reconstruction. The letter contains information and time frames. A public meeting on the project will be held in June. Staff also noted that she distributed the quarterly newsletter to everyone and had several copies of a new magazine published by the National Association of Realtors that she felt was worthwhile for the Commission to review.

XII. ADJOURNMENT

Motion to adjourn at 9:40 p.m. made by Sutherland, seconded by Hudecek, so voted unanimously.

Susan Marquardt, Secretary
Zoning Commission

Prepared by Lynda Galetta
Office Assistant II